

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA DIVISION

FILED

2010 OCT 26 P 12:48

REGINA HICKMAN,

)
) U.S. DISTRICT COURT
Plaintiff,) EASTERN DIST. TENN.

vs.

NCO FINANCIAL SYSTEMS, INC.,

) Case No.: BY 1:10-cv-294 DEPT. CLERK
Plaintiff's Complaint
AND DEMAND FOR JURY TRIAL

Defendant.)

Mattice
Carter

VERIFIED COMPLAINT

REGINA HICKMAN, ("Plaintiff"), through the undersigned counsel, ALEX SIMANOVSKY & ASSOCIATES, LLC, alleges the following against NCO FINANCIAL SYSTEMS, INC., ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."

3. Defendant conducts business in the state of Tennessee, and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. 1331(b)(1).

5. Declaratory relief is available pursuant to 28 U.S.C. 2201 and 2202.

PARTIES

6. Plaintiff is a natural person residing in Chattanooga, Hamilton County, Tennessee.

7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).

8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought to collect a consumer debt from Plaintiff.

9. Defendant is a national company, with its corporate office located at: NCO Financial Systems, Inc., 507 Prudential Road, Horsham, Montgomery County, Pennsylvania 19044.

10. Defendant, in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

A. DEBT

11. Plaintiff incurred a financial obligation in the approximate amount of \$8,000.00 (the "Debt") to CitiBank (the "Creditor") in connection with a personal credit card.

12. The Debt arose from services allegedly provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a "debt" under 15 U.S.C. §1692a(5).

13. The debt was incurred in 2007.

14. Plaintiff established a payment plan with CitiBank and has dutifully and timely made the arranged payments to this day.

15. The Debt was purchased, assigned or transferred to NCO Financial Systems, Inc. for collection, or NCO Financial Systems, Inc. was employed by the Creditor to collect the Debt.

16. The Defendant attempted to collect the Debt and, as such, engaged in "communications" as defined in 15 U.S.C. §1692a(2).

B. HARASSMENT AND ABUSIVE TACTICS

17. Defendant constantly and continuously places collection calls to Plaintiff seeking and demanding payment for the alleged debt.

18. Defendant calls Plaintiff from telephone number 918-280-0811 or 918-665-8200 seeking and demanding payment for the alleged debt.

19. Defendant has caused Plaintiff's personal phone, 423-629-0802, to ring and has engaged Plaintiff in telephone conversations repeatedly.

20. Defendant began calling on or about March 2010.

21. Defendant did not send Plaintiff a validation letter despite numerous requests to do so.

22. Defendant has been secured as a collector despite Plaintiff's continuing and timely payments to the original creditor.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

23. Defendant violated the FDCPA based on the following:

- a.) Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.
- b.) Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring

repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.

- c.) Defendant violated §1692g of the FDCPA by failing to send Plaintiff a validation notice within five days of the initial communication.
- d.) Defendant violated §1692g(b) of the FDCPA by continuing with collection attempts on the alleged debt before the debt has been validated.
- e.) Defendant violated §1692e(1) of the FDCPA by communicating a false impression of the character, amount, or legal status of the alleged debt.

WHEREFORE, Plaintiff, REGINA HICKMAN, respectfully requests judgment be entered against Defendant, NCO FINANCIAL SYSTEMS, INC., for the following:

- a. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act,
- b. Statutory damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,
- c. Actual damages,
- d. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k
- e. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, REGINA HICKMAN, demands a jury trial in this case.

[ELECTRONIC SIGNATURE ON NEXT PAGE]

This _____ day of October, 2010.

RESPECTFULLY SUBMITTED,

By: _____

Jessica Johnson

Attorney for Plaintiff

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This _____ day of October, 2010.

RESPECTFULLY SUBMITTED,

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